

**UNITED STATES DISTRICT COURT**  
**WESTERN DISTRICT OF LOUISIANA**  
**LAKE CHARLES DIVISION**

**BASF AGROCHEMICAL PRODUCTS : DOCKET NO. 05-1478**  
**B.V. AND BASF CORPORATION**  
**VS. : JUDGE MINALDI**  
**MICHAEL T. UNKEL, ET AL. : MAGISTRATE JUDGE WILSON**

**MEMORANDUM ORDER**

Before the court is defendants' motion for reconsideration [doc. # 74] of the court's November 8, 2005, Order [doc. # 57] granting plaintiffs' "Motion for Leave to Amend Complaint." Defendants imply that their "Opposition to Motion to Amend Complaint" was a "responsive pleading" that should have been considered by the undersigned. However, a "responsive pleading" for purposes of Federal Rule of Civil Procedure Rule 15(a), is defined by reference to the pleadings set forth Rule 7(a). *Zaidi v. Ehrlich*, 732 F.2d 1218, 1219 -1220 (5<sup>th</sup> Cir. 1984).<sup>1</sup> An opposition to a motion to amend the complaint is not a recognized pleading under Rule 7(a), and thus is not a "responsive pleading" within the meaning of Rule 15(a).

Moreover, the undersigned originally considered defendants' opposition memorandum, the thrust of which was that a plaintiff who lacks standing should not be permitted to join another party to cure the deficiency. However, an amendment as of course to join a party is not prohibited even if prior to the joinder, plaintiff failed to state a cause of action. *See, McClellan v. Mississippi Power and Light Co.*, 526 F.2d 870, 872 n. 2 (5th Cir.1976), *modified on other*

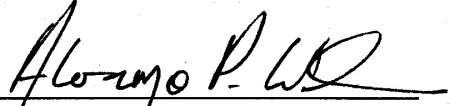
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<sup>1</sup> *Zaidi* was cited in our November 8, 2005, Order.

*grounds*, 545 F.2d 919 (5th Cir.1977) (*en banc*).<sup>2</sup>

For the foregoing reasons, defendants' motion for reconsideration [doc. # 74] is hereby  
DENIED.

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 5<sup>th</sup> day of  
December, 2005.

  
ALONZO P. WILSON  
UNITED STATES MAGISTRATE JUDGE

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<sup>2</sup> *McClellan* was cited in our original decision. We express no opinion as to the effectiveness of the amendment.